

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>ANDREW E. WARRINGTON,</b>	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 06-66-GMS
	:	
<b>THOMAS L. CARROLL,</b>	:	
Warden, and <b>CARL C. DANBERG,</b>	:	
Attorney General for the State of Delaware,	:	
	:	
Respondents.	:	
<b>ROBERT W. WARRINGTON,</b>	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 06-67-SLR
	:	
<b>THOMAS L. CARROLL,</b>	:	
Warden, and <b>CARL C. DANBERG,</b>	:	
Attorney General for the State of Delaware,	:	
	:	
Respondents.	:	

**MOTION TO CONSOLIDATE**

Pursuant to Rule 42 of the Federal Rules of Civil Procedure, respondents hereby move to consolidate the above-captioned cases. In support thereof, respondents state the following:

1. Andrew Warrington and his brother, Robert Warrington, were arrested, indicted and tried together in Delaware Superior Court on identical charges of first degree murder, two weapons offenses and first degree conspiracy. In November 2001, both Warrington brothers were found guilty by a Superior Court jury of first degree murder, possession of a deadly weapon during the commission of a felony, and first degree conspiracy; the jury acquitted them of a second charge of possession of a deadly weapon during the commission of a felony. *Warrington*

*v. State*, 2006 WL 196433 (Del. Jan. 24, 2006). Each brother was sentenced to life imprisonment plus twenty-five years. *Id.*

2. On direct appeal of their convictions, the cases were consolidated and a joint opening brief was filed with the state supreme court. *See Warrington v. State*, 840 A.2d 590 (Del. 2003). Robert and Andrew each separately filed *pro se* state postconviction motions raising similar grounds for relief. Those motions were denied, and the Superior Court's decisions were affirmed on appeal. *See Warrington v. State*, 2006 WL 196433 (Del. Jan. 24, 2006); *Warrington v. State*, 2006 WL 196437 (Del. Jan. 24, 2006).

3. Andrew and Robert Warrington have both filed petitions seeking federal habeas relief. Those petitions raise substantially similar grounds for relief. *See* D.I. 1 in Civ. Act. No. 06-67-SLR; D.I. 1 in Civ. Act. No. 06-66-GMS. Respondents have filed answers to both petitions. *See* D.I. 16 in Civ. Act. No. 06-67-SLR; D.I.\_ in Civ. Act. No. 06-66-GMS.

4. Consolidation of these two cases would avoid possible inconsistent outcomes and would be conducive to judicial economy. Consolidation is warranted in light of the identical factual background of the two cases and the substantial overlap in the issues presented by each petitioner. Respondents submit herewith a proposed order.

/s/ Elizabeth R. McFarlan  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 3759

DATE: August 11, 2006

**RULE 7.1.1 CERTIFICATION**

I hereby certify that I have neither sought nor obtained the consent of the petitioners, who are incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ Elizabeth R. McFarlan  
Deputy Attorney General

Counsel for Respondents

Date: August 11, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on August 11, 2006, I electronically filed an answer to a habeas petition with the Clerk of Court using CM/ECF. I also hereby certify that on August 11, 2006, I have mailed by United States Postal Service, the same documents to the following non-registered participants:

Andrew E. Warrington  
SBI No. 339043  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

Robert E. Warrington  
SBI No. 442182  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

/s/ Elizabeth R. McFarlan  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 3759  
elizabeth.mcfarlan@state.de.us

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Warden, and <b>CARL C. DANBERG,</b>	:	
Attorney General for the State of Delaware,	:	
	:	
Respondents.	:	

**ORDER**

This \_\_\_\_ day of \_\_\_\_\_, 2006,

WHEREAS, respondents having moved to consolidate the above-captioned cases, and

WHEREAS, it appearing to the Court that consolidation is warranted in light of the identical factual background and the substantial overlap in the issues presented by each petitioner,

IT IS HEREBY ORDERED that the above-captioned cases are consolidated.

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United States District Judge